

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

IN RE:
RICARDO MELGOZA
AND
LAURA FUENTES MELGOZA
Debtors

BCN #: 12-75300/FJS
Chapter: 13

NOTICE OF MOTION

HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4 has filed papers with the court to request an order granting relief from the Automatic Stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the Motion, or if you want the court to consider your views on the Motion, then on or before May 21, 2013, you or your attorney must:

- File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
600 Granby Street
Room 400
Norfolk, VA 23510

You must also mail a copy to:

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462 Attorneys for HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4

- Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

12-229266

Dated: May 7, 2013

SHAPIRO BROWN & ALT, LLP
Attorneys for HSBC Bank USA, National Association, as
Trustee of the First NLC Trust 2005-4, Mortgage-Backed
Certificates, Series 2005-4

By: /s/Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

CERTIFICATE OF SERVICE

I certify that I have this 7th day of May, 2013, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

Steve C. Taylor
Law Offices of Steve C. Taylor, PC
133 Mount Pleasant Road
Chesapeake, VA 23322

Michael P. Cotter
Chapter 13 Trustee
870 Greenbrier Circle, Suite 402
Chesapeake, VA 23320

Ricardo Melgoza and Laura F. Melgoza
6340 Drew Drive
Virginia Beach, VA 23464

/s/Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445

United States Bankruptcy Court
Eastern District of Virginia
Norfolk Division

In RE:
Ricardo Melgoza and Laura Fuentes
Melgoza
Debtors

BCN#: 12-75300/FJS
Chapter: 13

HSBC Bank USA, National Association, as
Trustee of the First NLC Trust 2005-4,
Mortgage-Backed Certificates, Series 2005-4
Movant/Secured Creditor,

Motion for Order Granting Relief

v.
Ricardo Melgoza and Laura Fuentes Melgoza
Debtors
and
Michael P. Cotter
Trustee
Respondents

HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4,
Mortgage-Backed Certificates, Series 2005-4, alleges as follows:

1. The bankruptcy court has jurisdiction over this contested matter pursuant to 28 U.S.C. § 157 and § 1334 and 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014; and Local Bankruptcy Rule 4001(a)-1.

2. The above named Debtors filed a Chapter 13 Petition in Bankruptcy with this Court on December 28, 2012.

3. Michael P. Cotter has been appointed by this Court as the Chapter 13 Trustee in this instant Bankruptcy proceeding.

4. Movant, HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4, is the current holder of the subject note secured by the subject Deed of Trust. The original note holder was First NLC Financial

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Services, LLC., with Mortgage Electronic Registration Systems, Inc., as beneficiary, solely as nominee for the Lender. The beneficial interest in the aforesaid Deed of Trust has been assigned to the Movant as evidenced by the Assignment dated July 20, 2012. The note was originated by First NLC Financial Services, LLC.. HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4 acquired the note pursuant to a blank endorsement of the note. Counsel for Movant has possession of the original Note. A copy of the Assignment, Deed of Trust, and Note are attached hereto and incorporated herein by reference.

5. Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property (hereinafter "the Property") with the address of 6340 Drew Drive, Virginia Beach, VA 23464 and more particularly described in the Deed of Trust dated November 18, 2005 and recorded as Deed Book/Instrument Number 20051206001983280 among the land records of the said city/county, as:

ALL THAT certain lot, piece or parcel of land situated in the City of Virginia Beach, Virginia, known, numbered and designated as Lot 45. in block "D", as shown on that certain plat entitled, "College Park Section 3, Virginia Beach, Virginia", duly of record in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 85, at pages 17 and 18.

6. JPMorgan Chase Bank, N.A., services the loan on the property referenced in this Motion for Relief. In the event the automatic stay in this case is lifted/set aside, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4. HSBC Bank USA, National Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4, directly or through an agent, has possession of the promissory note. The promissory note is either made payable to HSBC Bank USA, National

Association, as Trustee of the First NLC Trust 2005-4, Mortgage-Backed Certificates, Series 2005-4 or has been duly indorsed.

7. Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtors.

8. The Debtors are in default with regard to payments which have become due under the terms of the aforementioned note and deed of trust since the filing of the Chapter 13 petition.

As of April 12, 2013, the Debtors are due for:

- o 4 post petition monthly payments of \$2,393.57 each which were to be paid directly to Movant;
- o Bankruptcy Fees of \$650.00
- o Bankruptcy Costs of \$176.00
- o Total of \$10,400.25

9. The unpaid principal balance on the said note is \$224,422.77.

10. A proof of claim for pre-petition arrears was filed with this Court on Movant's behalf on April 29, 2013, in the amount of \$22,920.08.

11. Movant has elected to initiate foreclosure proceedings on the Property with respect to the subject Trust Deed, but is prevented by the Automatic Stay from going forward with these proceedings.

12. Movant is informed and believes, and, based upon such information and belief, alleges that the Debtors have little or no equity in the property.

13. Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

14. Movant requests that the Court set a hearing on this motion.

WHEREFORE, Movant prays for an order granting relief from Automatic Stay in order to pursue its remedies under the terms of its Note and Deed of Trust, that the fourteen (14) day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, for its attorneys fees and costs expended, and for such other and further relief as the Court and equity deem appropriate.

Dated: May 7, 2013

SHAPIRO BROWN & ALT, LLP
Attorneys for Movant

By: /s/Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777 12-229266

NOTICE

Please take notice:

YOU MUST FILE A WRITTEN RESPONSE WITHIN 14 DAYS AFTER SERVICE OF THIS MOTION WITH THE COURT, WITH A COPY TO THE COUNSEL FOR THE MOVANT AT THE ADDRESS INDICATED BELOW.

HSBC Bank USA, National Association, as Trustee
of the First NLC Trust 2005-4, Mortgage-Backed
Certificates, Series 2005-4

By: /s/Susan C. Meyer
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CERTIFICATE OF SERVICE

I certify that I have electronically transmitted and/or mailed via first class mail, postage prepaid, a true copy of the above Motion for Order Granting Relief from Automatic Stay on the 7th day of May, 2013, to the following:

Steve C. Taylor
Law Offices of Steve C. Taylor, PC
133 Mount Pleasant Road
Chesapeake, VA 23322

Michael P. Cotter
Chapter 13 Trustee
870 Greenbrier Circle, Suite 402
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/s/Susan C. Meyer
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